THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 24658 OF 2006

DATED: 26-06-2007

Between :

P.Anand

… Petitioner

And

The Karur Vysya Bank Limited,
Rep., by its Authorized Officer,
M.G.Road, Vijayawada and another.

... Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO. 24658 of 2006

ORDER :

This writ petition is filed seeking a declaration that the letter dated 16-11-2006 issued by the first respondent-Bank proposing to proceed against the secured assets under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short ' the Act') for realisation of the amount due from the petitioner is arbitrary and illegal.

As could be seen from the material on record, a demand notice under Section 13(2) of the Act was issued on 25-04-2006 calling upon the petitioner to discharge the liability of the loan account in full within 60 days, failing which the rights under sub-section (4) of Section 13 of the Act would be exercised.

Pursuant thereto, it appears that the petitioner had made a request for One Time Settlement. Having considered the same, the first respondent-Bank advised the petitioner to remit a sum of Rs.23,50,000/- on or before 31-10-2006. However, the petitioner could not comply with the same and consequently by letter dated 01-11-2006 the petitioner was informed by the first respondent that the One Time Settlement stood cancelled with immediate effect and that they would proceed further legally for recovery of the loan amount. Thereafter, the impugned notice dated 16-11-2006 was issued under Section 13(4) of the Act calling upon the petitioner to handover the vacant possession of the secured asset.

Having heard the learned counsel for the petitioner and the

learned counsel appearing for the respondents, I do not find any justifiable reason to hold that the impugned action of the respondents is arbitrary or illegal.

At any rate, since Section 17 of the Act provides for an alternative remedy for redressal of the grievance of the petitioner by making an application before the Debts Recovery Tribunal having jurisdiction, it is not open to the petitioner to invoke the writ jurisdiction under Article 226 of the Constitution of India without exhausting the alternative remedy.

Accordingly, while making it clear that this Court has not expressed any opinion as to the alleged liability of the petitioner, the writ petition is disposed of granting leave and liberty to the petitioner to work out the alternative remedy, if so advised. It is needless to mention that the interim order of status quo shall stand vacated. No costs.

_____

G. ROHINI, J.

Date 26-06-2007
KLP